

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

MARKO BOSKIC

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) Case No. 04-CR-10298-DPW
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**DEFENDANT'S MOTION IN LIMINE TO LIMIT THE TESTIMONY
OF ALISTAR GRAHAM**

Defendant Marko Boskic hereby moves this Court to limit the testimony of Alistar Graham, an investigator with the International Criminal Tribunal for the Former Yugoslavia (ICTY). A large portion of his proffered testimony is much more prejudicial than probative and, for any of the challenged information that is determined to be relevant, there are other means of proof.

In support of this motion, defendant states:

1. In its Trial Brief, the government writes that Alistar Graham will testify concerning his role in the investigations into the "crimes" and "atrocities" "committed during the Yugoslav conflict." Trial Brief, at 30. No specific information concerning this aspect of his testimony is provided. It is this portion of his testimony to which defendant objects and moves to

exclude.¹

2. The details of the ICTY investigation into the events in Srebrenica are largely irrelevant to questions this jury must answer. There is no evidence that defendant was present for or participated in many of the events. Alistar Graham will be unable to link defendant to the events he will describe.

3. The parties already have stipulated to the forensic evidence.

4. Allowing Alistar Graham to detail his investigation will unnecessarily and improperly horrify the jury and confuse them as to the matters at issue.

5. According to Advisory Committee Notes to Fed. R. Evid. 403, when proffered evidence has a tendency to be highly prejudicial, the court should consider "the availability of other means of proof." Defendant has offered to stipulate to the following (in addition to the forensic stipulation):

The Socialist Federal Republic of Yugoslavia existed from 1946-1992. It consisted of six republics and two autonomous provinces. These were Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia, Slovenia and the provinces of Vojvodina and Kosovo. There was one army called the JNA or Yugoslav People's Army and all persons had required service in this army.

In 1991 Slovenia, Croatia and Macedonia declared independence and were recognized by the international

¹ The government will also offer testimony by Graham as to his August, 2004 interview of defendant. Defendant is not seeking to exclude this aspect of Graham's testimony.

community. In 1992 Bosnia and Herzegovina declared independence and was recognized by the international community. The remainder of the former Yugoslavia which is now called Serbia and Montenegro was renamed the Federal Republic of Yugoslavia. At the time that Bosnia and Herzegovina declared their independence, ethnic tensions were already high and the Bosnian Serbs declared their independence and alliance with what is now Serbia (Montenegro held a referendum to declare their own independence from Serbia in March of 2006).

War in Bosnia broke out between the VRS Army of the Republika Srpska (Bosnian Serbs), HVO Croatian Defense Council and AbiH Army of Bosnian Muslims. Between 1992 and 1995 each group - the Croats, Serbs and Muslims, sought to expand their area of control.

On July 11, 1995 the Serbs launched an offensive against Srebrenica and captured the town. Srebrenica was in the territory of the Republika Srpska but was predominately Muslim and was a "protected area" by the UN. This takeover and the executions that occurred in Srebrenica were conducted by units of the Army of the Republika Srpska including the Tenth Sabotage Division among others. On the 16th of July 1995, hundreds of Muslim boys and men were killed at the Branjevo Military Farm. All those who died were between the ages of 8 and 61 years of age, they were all male, and they all died from gunshots.

Respectfully submitted,

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